

Section 3654, acts June 25, 1948, ch. 645, 62 Stat. 843; Aug. 2, 1949, ch. 383, §2, 63 Stat. 491, related to appointment and removal of probation officers.

Section 3655, acts June 25, 1948, ch. 645, 62 Stat. 843; Mar. 15, 1976, Pub. L. 94-233, §14, 90 Stat. 233; Oct. 12, 1984, Pub. L. 98-473, title II, §§235(a)(1), 238(d), (i), 98 Stat. 2031, 2038, 2039; Oct. 30, 1984, Pub. L. 98-596, §§5, 12(a)(4), (9), (b), 98 Stat. 3136, 3139, 3140, related to duties of probation officers.

Section 3656 renumbered section 3672 of this title.

#### EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such repeal, see section 235(a)(1) of Pub. L. 98-473, set out as an Effective Date note under section 3551 of this title.

### CHAPTER 232—MISCELLANEOUS SENTENCING PROVISIONS

Sec.	
3661.	Use of information for sentencing.
3662.	Conviction records.
3663.	Order of restitution.
3663A.	Mandatory restitution to victims of certain crimes.
3664.	Procedure for issuance and enforcement of order of restitution.
3665.	Firearms possessed by convicted felons.
3666.	Bribe moneys.
3667.	Liquors and related property; definitions.
3668.	Remission or mitigation of forfeitures under liquor laws; possession pending trial.
3669.	Conveyances carrying liquor.
3670.	Disposition of conveyances seized for violation of the Indian liquor laws.
3671.	Vessels carrying explosives and steerage passengers.
3672.	Duties of Director of Administrative Office of the United States Courts.
3673.	Definitions for sentencing provisions.

#### AMENDMENTS

1996—Pub. L. 104-132, title II, §§204(b), 206(b), Apr. 24, 1996, 110 Stat. 1229, 1236, added item 3663A and substituted “issuance and enforcement of order of restitution” for “issuing order of restitution” in item 3664.

1990—Pub. L. 101-647, title XXXV, §3594, Nov. 29, 1990, 104 Stat. 4931, substituted “Conveyances” for “Conveyance” in item 3669.

1984—Pub. L. 98-473, title II, §§212(a)(5), 235(a)(1), Oct. 12, 1984, 98 Stat. 2010, 2031, as amended, added chapter heading and analysis of sections for chapter 232 consisting of items 3661 to 3673, effective Nov. 1, 1987.

#### EFFECTIVE DATE

Pub. L. 98-473, title II, §§212(a)(1), (3)–(5), 235(a)(1), Oct. 12, 1984, 98 Stat. 1987, 2010, 2031, as amended, enacted heading, analysis, and section 3673 of this chapter (§§3661 to 3673), provided that sections 3577, 3578, 3579, 3580, 3611, 3612, 3615, 3617, 3618, 3619, 3620, and 3656 of this title are renumbered as sections 3661, 3662, 3663, 3664, 3665, 3666, 3667, 3668, 3669, 3670, 3671, and 3672, respectively, of this chapter, and amended section 3663 of this chapter, effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of this chapter. Section 235 of Pub. L. 98-473, as amended, relating to effective dates, is set out as a note under section 3551 of this title.

#### § 3661. Use of information for sentencing

No limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence.

(Added Pub. L. 91-452, title X, §1001(a), Oct. 15, 1970, 84 Stat. 951, §3577; renumbered §3661, Pub.

L. 98-473, title II, §212(a)(1), Oct. 12, 1984, 98 Stat. 1987.)

#### SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-421, §1, Oct. 12, 1990, 104 Stat. 909, provided that: “This Act [amending provisions set out as a note under section 3672 of this title] may be cited as the ‘Drug and Alcohol Dependent Offenders Treatment Act of 1989’.”

#### SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-570, title I, §1861(a), Oct. 27, 1986, 100 Stat. 3207-53, provided that: “This section [amending sections 3672 and 4255 of this title, enacting provisions set out as a note under section 3672 of this title, and amending provisions set out as a note under section 4255 of this title] may be cited as the ‘Drug and Alcohol Dependent Offenders Treatment Act of 1986’.”

#### § 3662. Conviction records

(a) The Attorney General of the United States is authorized to establish in the Department of Justice a repository for records of convictions and determinations of the validity of such convictions.

(b) Upon the conviction thereafter of a defendant in a court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof for an offense punishable in such court by death or imprisonment in excess of one year, or a judicial determination of the validity of such conviction on collateral review, the court shall cause a certified record of the conviction or determination to be made to the repository in such form and containing such information as the Attorney General of the United States shall by regulation prescribe.

(c) Records maintained in the repository shall not be public records. Certified copies thereof—

(1) may be furnished for law enforcement purposes on request of a court or law enforcement or corrections officer of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof;

(2) may be furnished for law enforcement purposes on request of a court or law enforcement or corrections officer of a State, any political subdivision, or any department, agency, or instrumentality thereof, if a statute of such State requires that, upon the conviction of a defendant in a court of the State or any political subdivision thereof for an offense punishable in such court by death or imprisonment in excess of one year, or a judicial determination of the validity of such conviction on collateral review, the court cause a certified record of the conviction or determination to be made to the repository in such form and containing such information as the Attorney General of the United States shall by regulation prescribe; and

(3) shall be prima facie evidence in any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, any political subdivision, or any department, agency, or

instrumentality thereof, that the convictions occurred and whether they have been judicially determined to be invalid on collateral review.

(d) The Attorney General of the United States shall give reasonable public notice, and afford to interested parties opportunity for hearing, prior to prescribing regulations under this section.

(Added Pub. L. 91-452, title X, § 1001(a), Oct. 15, 1970, 84 Stat. 951, § 3578; renumbered § 3662, Pub. L. 98-473, title II, § 212(a)(1), Oct. 12, 1984, 98 Stat. 1987.)

### § 3663. Order of restitution

(a)(1)(A) The court, when sentencing a defendant convicted of an offense under this title, section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863) (but in no case shall a participant in an offense under such sections be considered a victim of such offense under this section), or section 5124, 46312, 46502, or 46504 of title 49, other than an offense described in section 3663A(c), may order, in addition to or, in the case of a misdemeanor, in lieu of any other penalty authorized by law, that the defendant make restitution to any victim of such offense, or if the victim is deceased, to the victim's estate. The court may also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.

(B)(i) The court, in determining whether to order restitution under this section, shall consider—

(I) the amount of the loss sustained by each victim as a result of the offense; and

(II) the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate.

(ii) To the extent that the court determines that the complication and prolongation of the sentencing process resulting from the fashioning of an order of restitution under this section outweighs the need to provide restitution to any victims, the court may decline to make such an order.

(2) For the purposes of this section, the term "victim" means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.

(3) The court may also order restitution in any criminal case to the extent agreed to by the parties in a plea agreement.

(b) The order may require that such defendant—

(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

(A) return the property to the owner of the property or someone designated by the owner; or

(B) if return of the property under subparagraph (A) is impossible, impractical, or inadequate, pay an amount equal to the greater of—

(i) the value of the property on the date of the damage, loss, or destruction, or

(ii) the value of the property on the date of sentencing,

less the value (as of the date the property is returned) of any part of the property that is returned;

(2) in the case of an offense resulting in bodily injury to a victim including an offense under chapter 109A or chapter 110—

(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

(C) reimburse the victim for income lost by such victim as a result of such offense;

(3) in the case of an offense resulting in bodily injury also results in the death of a victim, pay an amount equal to the cost of necessary funeral and related services;

(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense;

(5) in any case, if the victim (or if the victim is deceased, the victim's estate) consents, make restitution in services in lieu of money, or make restitution to a person or organization designated by the victim or the estate; and

(6) in the case of an offense under sections 1028(a)(7) or 1028A(a) of this title, pay an amount equal to the value of the time reasonably spent by the victim in an attempt to remediate the intended or actual harm incurred by the victim from the offense.

(c)(1) Notwithstanding any other provision of law (but subject to the provisions of subsections (a)(1)(B)(i)(II) and (ii)),<sup>1</sup> when sentencing a defendant convicted of an offense described in section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863), in which there is no identifiable victim, the court may order that the defendant make restitution in accordance with this subsection.

(2)(A) An order of restitution under this subsection shall be based on the amount of public harm caused by the offense, as determined by the court in accordance with guidelines promul-

<sup>1</sup> So in original. Probably should be "(ii).".

gated by the United States Sentencing Commission.

(B) In no case shall the amount of restitution ordered under this subsection exceed the amount of the fine which may be ordered for the offense charged in the case.

(3) Restitution under this subsection shall be distributed as follows:

(A) 65 percent of the total amount of restitution shall be paid to the State entity designated to administer crime victim assistance in the State in which the crime occurred.

(B) 35 percent of the total amount of restitution shall be paid to the State entity designated to receive Federal substance abuse block grant funds.

(4) The court shall not make an award under this subsection if it appears likely that such award would interfere with a forfeiture under chapter 46 or chapter 96 of this title or under the Controlled Substances Act (21 U.S.C. 801 et seq.).

(5) Notwithstanding section 3612(c) or any other provision of law, a penalty assessment under section 3013 or a fine under subchapter C of chapter 227 shall take precedence over an order of restitution under this subsection.

(6) Requests for community restitution under this subsection may be considered in all plea agreements negotiated by the United States.

(7)(A) The United States Sentencing Commission shall promulgate guidelines to assist courts in determining the amount of restitution that may be ordered under this subsection.

(B) No restitution shall be ordered under this subsection until such time as the Sentencing Commission promulgates guidelines pursuant to this paragraph.

(d) An order of restitution made pursuant to this section shall be issued and enforced in accordance with section 3664.

(Added Pub. L. 97-291, §5(a), Oct. 12, 1982, 96 Stat. 1253, §3579; renumbered §3663 and amended Pub. L. 98-473, title II, §212(a)(1), (3), Oct. 12, 1984, 98 Stat. 1987, 2010; Pub. L. 98-596, §9, Oct. 30, 1984, 98 Stat. 3138; Pub. L. 99-646, §§8(b), 20(a), 77(a), 78(a), 79(a), Nov. 10, 1986, 100 Stat. 3593, 3596, 3618, 3619; Pub. L. 100-182, §13, Dec. 7, 1987, 101 Stat. 1268; Pub. L. 100-185, §12, Dec. 11, 1987, 101 Stat. 1285; Pub. L. 100-690, title VII, §7042, Nov. 18, 1988, 102 Stat. 4399; Pub. L. 101-647, title XXV, §2509, title XXXV, §3595, Nov. 29, 1990, 104 Stat. 4863, 4931; Pub. L. 103-272, §5(e)(12), July 5, 1994, 108 Stat. 1374; Pub. L. 103-322, title IV, §§40504, 40505, Sept. 13, 1994, 108 Stat. 1947; Pub. L. 104-132, title II, §205(a), Apr. 24, 1996, 110 Stat. 1229; Pub. L. 104-294, title VI, §§601(r)(1), (2), 605(l), Oct. 11, 1996, 110 Stat. 3502, 3510; Pub. L. 106-310, div. B, title XXXVI, §3613(c), Oct. 17, 2000, 114 Stat. 1230; Pub. L. 109-59, title VII, §7128(b), Aug. 10, 2005, 119 Stat. 1910; Pub. L. 110-326, title II, §202, Sept. 26, 2008, 122 Stat. 3561.)

#### REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (c)(4), is title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

#### AMENDMENTS

2008—Subsec. (b)(6). Pub. L. 110-326 added par. (6).

2005—Subsec. (a)(1)(A). Pub. L. 109-59 inserted “5124,” before “46312.”

2000—Subsec. (c)(2)(B). Pub. L. 106-310 inserted “which may be” after “fine”.

1996—Subsec. (a)(1). Pub. L. 104-132, §205(a)(1)(A)–(E), substituted “(a)(1)(A) The court” for “(a)(1) The court”, inserted “, section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863) (but in no case shall a participant in an offense under such sections be considered a victim of such offense under this section),” before “or section 46312,” “other than an offense described in section 3663A(c),” after “title 49”, and “, or if the victim is deceased, to the victim’s estate” before period at end, and added subpar. (B).

Subsec. (a)(1)(A). Pub. L. 104-294, §601(r)(1), inserted at end “The court may also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.”

Subsec. (a)(2). Pub. L. 104-132, §205(a)(1)(F), as amended by Pub. L. 104-294, §605(l), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “For the purposes of restitution, a victim of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity means any person directly harmed by the defendant’s criminal conduct in the course of the scheme, conspiracy, or pattern.”

Subsec. (c). Pub. L. 104-132, §205(a)(2), (3), added subsec. (c) and struck out former subsec. (c) which read as follows: “If the court decides to order restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim’s estate.”

Subsec. (c)(4). Pub. L. 104-294, §601(r)(2), inserted “or chapter 96” after “under chapter 46”.

Subsec. (d). Pub. L. 104-132, §205(a)(2), (3), added subsec. (d) and struck out former subsec. (d) which read as follows: “To the extent that the court determines that the complication and prolongation of the sentencing process resulting from the fashioning of an order of restitution under this section outweighs the need to provide restitution to any victims, the court may decline to make such an order.”

Subsecs. (e) to (i). Pub. L. 104-132, §205(a)(2), struck out subsecs. (e) to (i), relating to provisions for restitution to persons who had compensated victims for their loss as well as offsets for restitution received by victims against amounts later recovered as compensatory damages, court orders that defendant make restitution in specified time period or in specified installments, payment of restitution as condition of probation or of supervised release, enforcement of restitution orders by United States or by victim, and supervision, termination, or restoration of eligibility for Federal benefits of persons delinquent in making restitution, respectively.

1994—Subsec. (a)(1). Pub. L. 103-272 substituted “section 46312, 46502, or 46504 of title 49” for “under subsection (h), (i), (j), or (n) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472)”.

Subsec. (b)(2). Pub. L. 103-322, §40504(1), in introductory provisions, inserted “including an offense under chapter 109A or chapter 110” after “victim”.

Subsec. (b)(3) to (5). Pub. L. 103-322, §40504(2)–(4), struck out “and” at end of par. (3), added par. (4), and redesignated former par. (4) as (5).

Subsec. (i). Pub. L. 103-322, §40505, added subsec. (i).

1990—Subsec. (a). Pub. L. 101-647, §2509, designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (f)(4). Pub. L. 101-647, §3595, substituted “604(a)(18)” for “604(a)(17)”.

1988—Subsec. (h). Pub. L. 100-690 amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: “An order of restitution may be enforced by the United States in the manner provided in sections 3812 and 3813 or in the same manner as a judgment in a civil action, and by the victim named in the order to receive

the restitution in the same manner as a judgment in a civil action.”

1987—Subsec. (f)(4). Pub. L. 100-185 inserted “or the person designated under section 604(a)(17) of title 28” after “Attorney General”.

Subsec. (g). Pub. L. 100-182 substituted “revoke probation or a term of supervised release,” for “revoke probation,” in two places and inserted “probation or” after “modify the term or conditions of” in two places.

1986—Subsec. (a). Pub. L. 99-646, §20(a), which directed that subsec. (a)(1) be amended by inserting “, in the case of a misdemeanor,” after “in addition to or”, was executed to subsec. (a) to reflect the probable intent of Congress and the prior amendment to subsec. (a) by Pub. L. 99-646, §8(b), below.

Pub. L. 99-646, §8(b), struck out par. (1) designation, and struck out par. (2) which read as follows: “If the court does not order restitution, or orders only partial restitution, under this section, the court shall state on the record the reasons therefor.”

Subsec. (a)(1). Pub. L. 99-646, §79(a), substituted “such offense” for “the offense”.

Subsec. (d). Pub. L. 99-646, §77(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “The court shall impose an order of restitution to the extent that such order is as fair as possible to the victim and the imposition of such order will not unduly complicate or prolong the sentencing process.”

Subsec. (h). Pub. L. 99-646, §78(a), substituted “in the manner provided for the collection of fines and penalties by section 3565 or by a victim” for “or a victim”.

1984—Pub. L. 98-473, §212(a)(1), renumbered section 3579 of this title as this section.

Subsec. (c). Pub. L. 98-596, §9(1), substituted “court” for “Court” after “If the”.

Subsec. (f)(4). Pub. L. 98-596, §9(2), added par. (4).

Subsec. (g). Pub. L. 98-473, §212(a)(3)(A), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: “If such defendant is placed on probation or paroled under this title, any restitution ordered under this section shall be a condition of such probation or parole. The court may revoke probation and the Parole Commission may revoke parole if the defendant fails to comply with such order. In determining whether to revoke probation or parole, the court or Parole Commission shall consider the defendant’s employment status, earning ability, financial resources, the willfulness of the defendant’s failure to pay, and any other special circumstances that may have a bearing on the defendant’s ability to pay.”

Subsec. (h). Pub. L. 98-473, §212(a)(3)(B), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: “An order of restitution may be enforced by the United States in the manner provided for the collection of fines and penalties by section 3565 or by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-132 to be effective, to extent constitutionally permissible, for sentencing proceedings in cases in which defendant is convicted on or after Apr. 24, 1996, see section 211 of Pub. L. 104-132, set out as a note under section 2248 of this title.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-182 applicable with respect to offenses committed after Dec. 7, 1987, see section 26 of Pub. L. 100-182, set out as a note under section 3006A of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 8(b) of Pub. L. 99-646 effective Nov. 1, 1987, see section 8(c) of Pub. L. 99-646, set out as a note under section 3553 of this title.

Amendment by section 20(a) of Pub. L. 99-646 effective Nov. 1, 1987, see section 20(c) of Pub. L. 99-646, set out as a note under section 3556 of this title.

Section 77(b) of Pub. L. 99-646 provided that: “The amendment made by this section [amending this sec-

tion] shall take effect on the 30th day after the date of the enactment of this Act [Nov. 10, 1986].”

Section 78(b) of Pub. L. 99-646 provided that: “The amendment made by this section [amending this section] shall take effect on the 30th day after the date of the enactment of this Act [Nov. 10, 1986].”

Section 79(b) of Pub. L. 99-646 provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Nov. 10, 1986].”

#### EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98-596 applicable to offenses committed after Dec. 31, 1984, see section 10 of Pub. L. 98-596.

Amendment by section 212(a)(3) of Pub. L. 98-473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98-473, set out as an Effective Date note under section 3551 of this title.

#### EFFECTIVE DATE

Section effective with respect to offenses occurring after Jan. 1, 1983, see section 9(b)(2) of Pub. L. 97-291, set out as a note under section 1512 of this title.

#### PROFIT BY A CRIMINAL FROM SALE OF HIS STORY

Section 7 of Pub. L. 97-291 required the Attorney General to report, by Oct. 12, 1982, to Congress regarding any laws that are necessary to ensure that no Federal felon derives any profit from the sale of the recollections, thoughts, and feelings of such felon with regards to the offense committed by the felon until any victim of the offense receives restitution.

### § 3663A. Mandatory restitution to victims of certain crimes

(a)(1) Notwithstanding any other provision of law, when sentencing a defendant convicted of an offense described in subsection (c), the court shall order, in addition to, or in the case of a misdemeanor, in addition to or in lieu of, any other penalty authorized by law, that the defendant make restitution to the victim of the offense or, if the victim is deceased, to the victim’s estate.

(2) For the purposes of this section, the term “victim” means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant’s criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim’s estate, another family member, or any other person appointed as suitable by the court, may assume the victim’s rights under this section, but in no event shall the defendant be named as such representative or guardian.

(3) The court shall also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.

(b) The order of restitution shall require that such defendant—

(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

(A) return the property to the owner of the property or someone designated by the owner; or

(B) if return of the property under subparagraph (A) is impossible, impracticable, or inadequate, pay an amount equal to—

- (i) the greater of—
  - (I) the value of the property on the date of the damage, loss, or destruction; or
  - (II) the value of the property on the date of sentencing, less
- (ii) the value (as of the date the property is returned) of any part of the property that is returned;

(2) in the case of an offense resulting in bodily injury to a victim—

(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

(C) reimburse the victim for income lost by such victim as a result of such offense;

(3) in the case of an offense resulting in bodily injury that results in the death of the victim, pay an amount equal to the cost of necessary funeral and related services; and

(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.

(c)(1) This section shall apply in all sentencing proceedings for convictions of, or plea agreements relating to charges for, any offense—

- (A) that is—
  - (i) a crime of violence, as defined in section 16;
  - (ii) an offense against property under this title, or under section 416(a) of the Controlled Substances Act (21 U.S.C. 856(a)), including any offense committed by fraud or deceit; or
  - (iii) an offense described in section 1365 (relating to tampering with consumer products); and
- (B) in which an identifiable victim or victims has suffered a physical injury or pecuniary loss.

(2) In the case of a plea agreement that does not result in a conviction for an offense described in paragraph (1), this section shall apply only if the plea specifically states that an offense listed under such paragraph gave rise to the plea agreement.

(3) This section shall not apply in the case of an offense described in paragraph (1)(A)(ii) if the court finds, from facts on the record, that—

- (A) the number of identifiable victims is so large as to make restitution impracticable; or
- (B) determining complex issues of fact related to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to

provide restitution to any victim is outweighed by the burden on the sentencing process.

(d) An order of restitution under this section shall be issued and enforced in accordance with section 3664.

(Added Pub. L. 104-132, title II, §204(a), Apr. 24, 1996, 110 Stat. 1227; amended Pub. L. 106-310, div. B, title XXXVI, §3613(d), Oct. 17, 2000, 114 Stat. 1230.)

#### AMENDMENTS

2000—Subsec. (c)(1)(A)(ii). Pub. L. 106-310 inserted “or under section 416(a) of the Controlled Substances Act (21 U.S.C. 856(a)),” after “under this title,”.

#### EFFECTIVE DATE

Section to be effective, to extent constitutionally permissible, for sentencing proceedings in cases in which defendant is convicted on or after Apr. 24, 1996, see section 211 of Pub. L. 104-132, set out as an Effective Date of 1996 Amendment note under section 2248 of this title.

### § 3664. Procedure for issuance and enforcement of order of restitution

(a) For orders of restitution under this title, the court shall order the probation officer to obtain and include in its presentence report, or in a separate report, as the court may direct, information sufficient for the court to exercise its discretion in fashioning a restitution order. The report shall include, to the extent practicable, a complete accounting of the losses to each victim, any restitution owed pursuant to a plea agreement, and information relating to the economic circumstances of each defendant. If the number or identity of victims cannot be reasonably ascertained, or other circumstances exist that make this requirement clearly impracticable, the probation officer shall so inform the court.

(b) The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or other report pertaining to the matters described in subsection (a) of this section.

(c) The provisions of this chapter, chapter 227, and Rule 32(c) of the Federal Rules of Criminal Procedure shall be the only rules applicable to proceedings under this section.

(d)(1) Upon the request of the probation officer, but not later than 60 days prior to the date initially set for sentencing, the attorney for the Government, after consulting, to the extent practicable, with all identified victims, shall promptly provide the probation officer with a listing of the amounts subject to restitution.

(2) The probation officer shall, prior to submitting the presentence report under subsection (a), to the extent practicable—

- (A) provide notice to all identified victims of—
  - (i) the offense or offenses of which the defendant was convicted;
  - (ii) the amounts subject to restitution submitted to the probation officer;
  - (iii) the opportunity of the victim to submit information to the probation officer concerning the amount of the victim's losses;

(iv) the scheduled date, time, and place of the sentencing hearing;

(v) the availability of a lien in favor of the victim pursuant to subsection (m)(1)(B); and

(vi) the opportunity of the victim to file with the probation officer a separate affidavit relating to the amount of the victim's losses subject to restitution; and

(B) provide the victim with an affidavit form to submit pursuant to subparagraph (A)(vi).

(3) Each defendant shall prepare and file with the probation officer an affidavit fully describing the financial resources of the defendant, including a complete listing of all assets owned or controlled by the defendant as of the date on which the defendant was arrested, the financial needs and earning ability of the defendant and the defendant's dependents, and such other information that the court requires relating to such other factors as the court deems appropriate.

(4) After reviewing the report of the probation officer, the court may require additional documentation or hear testimony. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

(5) If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing, the attorney for the Government or the probation officer shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

(6) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate judge or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

(e) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant's dependents, shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

(f)(1)(A) In each order of restitution, the court shall order restitution to each victim in the full amount of each victim's losses as determined by the court and without consideration of the economic circumstances of the defendant.

(B) In no case shall the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source be considered in determining the amount of restitution.

(2) Upon determination of the amount of restitution owed to each victim, the court shall, pursuant to section 3572, specify in the restitution order the manner in which, and the schedule according to which, the restitution is to be paid, in consideration of—

(A) the financial resources and other assets of the defendant, including whether any of these assets are jointly controlled;

(B) projected earnings and other income of the defendant; and

(C) any financial obligations of the defendant; including obligations to dependents.

(3)(A) A restitution order may direct the defendant to make a single, lump-sum payment, partial payments at specified intervals, in-kind payments, or a combination of payments at specified intervals and in-kind payments.

(B) A restitution order may direct the defendant to make nominal periodic payments if the court finds from facts on the record that the economic circumstances of the defendant do not allow the payment of any amount of a restitution order, and do not allow for the payment of the full amount of a restitution order in the foreseeable future under any reasonable schedule of payments.

(4) An in-kind payment described in paragraph (3) may be in the form of—

(A) return of property;

(B) replacement of property; or

(C) if the victim agrees, services rendered to the victim or a person or organization other than the victim.

(g)(1) No victim shall be required to participate in any phase of a restitution order.

(2) A victim may at any time assign the victim's interest in restitution payments to the Crime Victims Fund in the Treasury without in any way impairing the obligation of the defendant to make such payments.

(h) If the court finds that more than 1 defendant has contributed to the loss of a victim, the court may make each defendant liable for payment of the full amount of restitution or may apportion liability among the defendants to reflect the level of contribution to the victim's loss and economic circumstances of each defendant.

(i) If the court finds that more than 1 victim has sustained a loss requiring restitution by a defendant, the court may provide for a different payment schedule for each victim based on the type and amount of each victim's loss and accounting for the economic circumstances of each victim. In any case in which the United States is a victim, the court shall ensure that all other victims receive full restitution before the United States receives any restitution.

(j)(1) If a victim has received compensation from insurance or any other source with respect to a loss, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

(2) Any amount paid to a victim under an order of restitution shall be reduced by any

amount later recovered as compensatory damages for the same loss by the victim in—

(A) any Federal civil proceeding; and

(B) any State civil proceeding, to the extent provided by the law of the State.

(k) A restitution order shall provide that the defendant shall notify the court and the Attorney General of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution. The court may also accept notification of a material change in the defendant's economic circumstances from the United States or from the victim. The Attorney General shall certify to the court that the victim or victims owed restitution by the defendant have been notified of the change in circumstances. Upon receipt of the notification, the court may, on its own motion, or the motion of any party, including the victim, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.

(l) A conviction of a defendant for an offense involving the act giving rise to an order of restitution shall estop the defendant from denying the essential allegations of that offense in any subsequent Federal civil proceeding or State civil proceeding, to the extent consistent with State law, brought by the victim.

(m)(1)(A)(i) An order of restitution may be enforced by the United States in the manner provided for in subchapter C of chapter 227 and subchapter B of chapter 229 of this title; or

(ii) by all other available and reasonable means.

(B) At the request of a victim named in a restitution order, the clerk of the court shall issue an abstract of judgment certifying that a judgment has been entered in favor of such victim in the amount specified in the restitution order. Upon registering, recording, docketing, or indexing such abstract in accordance with the rules and requirements relating to judgments of the court of the State where the district court is located, the abstract of judgment shall be a lien on the property of the defendant located in such State in the same manner and to the same extent and under the same conditions as a judgment of a court of general jurisdiction in that State.

(2) An order of in-kind restitution in the form of services shall be enforced by the probation officer.

(n) If a person obligated to provide restitution, or pay a fine, receives substantial resources from any source, including inheritance, settlement, or other judgment, during a period of incarceration, such person shall be required to apply the value of such resources to any restitution or fine still owed.

(o) A sentence that imposes an order of restitution is a final judgment notwithstanding the fact that—

(1) such a sentence can subsequently be—

(A) corrected under Rule 35 of the Federal Rules of Criminal Procedure and section 3742 of chapter 235 of this title;

(B) appealed and modified under section 3742;

(C) amended under subsection (d)(5); or

(D) adjusted under section 3664(k), 3572, or 3613A; or

(2) the defendant may be resentenced under section 3565 or 3614.

(p) Nothing in this section or sections 2248, 2259, 2264, 2327, 3663, and 3663A and arising out of the application of such sections, shall be construed to create a cause of action not otherwise authorized in favor of any person against the United States or any officer or employee of the United States.

(Added Pub. L. 97-291, §5(a), Oct. 12, 1982, 96 Stat. 1255, §3580; renumbered §3664, Pub. L. 98-473, title II, §212(a)(1), Oct. 12, 1984, 98 Stat. 1987; amended Pub. L. 101-647, title XXXV, §3596, Nov. 29, 1990, 104 Stat. 4931; Pub. L. 104-132, title II, §206(a), Apr. 24, 1996, 110 Stat. 1232; Pub. L. 107-273, div. B, title IV, §4002(e)(1), Nov. 2, 2002, 116 Stat. 1810.)

#### REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsecs. (c) and (o)(1)(A), are set out in the Appendix to this title.

#### AMENDMENTS

2002—Subsec. (o)(1)(C). Pub. L. 107-273 substituted “subsection (d)(5)” for “section 3664(d)(3)”.

1996—Pub. L. 104-132 amended section generally, substituting provisions relating to procedure for issuance and enforcement of orders of restitution for provisions relating to procedure for issuing orders of restitution.

1990—Subsec. (a). Pub. L. 101-647 substituted “3663” for “3579”.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-132 to be effective, to extent constitutionally permissible, for sentencing proceedings in cases in which defendant is convicted on or after Apr. 24, 1996, see section 211 of Pub. L. 104-132, set out as a note under section 2248 of this title.

#### EFFECTIVE DATE

Section effective with respect to offenses occurring after Jan. 1, 1983, see section 9(b)(2) of Pub. L. 97-291, set out as a note under section 1512 of this title.

### § 3665. Firearms possessed by convicted felons

A judgment of conviction for transporting a stolen motor vehicle in interstate or foreign commerce or for committing or attempting to commit a felony in violation of any law of the United States involving the use of threats, force, or violence or perpetrated in whole or in part by the use of firearms, may, in addition to the penalty provided by law for such offense, order the confiscation and disposal of firearms and ammunition found in the possession or under the immediate control of the defendant at the time of his arrest.

The court may direct the delivery of such firearms or ammunition to the law-enforcement agency which apprehended such person, for its use or for any other disposition in its discretion.

(June 25, 1948, ch. 645, 62 Stat. 839, §3611; renumbered §3665, Pub. L. 98-473, title II, §212(a)(1), Oct. 12, 1984, 98 Stat. 1987.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §645 (June 13, 1939, ch. 197, 53 Stat. 814).

The condensation and simplification of this section clarifies its intent to confiscate the firearms taken from persons convicted of crimes of violence without any real change of substance.

**§ 3666. Bribe moneys**

Moneys received or tendered in evidence in any United States Court, or before any officer thereof, which have been paid to or received by any official as a bribe, shall, after the final disposition of the case, proceeding or investigation, be deposited in the registry of the court to be disposed of in accordance with the order of the court, to be subject, however, to the provisions of section 2042 of Title 28.

(June 25, 1948, ch. 645, 62 Stat. 840, § 3612; May 24, 1949, ch. 139, § 55, 63 Stat. 96; renumbered § 3666, Pub. L. 98-473, title II, § 212(a)(1), Oct. 12, 1984, 98 Stat. 1987.)

## HISTORICAL AND REVISION NOTES

## 1948 ACT

Based on title 18, U.S.C., 1940 ed., § 570 (Jan. 7, 1925, ch. 33, 43 Stat. 726).

Changes were made in phraseology.

## 1949 ACT

This section [section 55] corrects section 3612 of title 18, U.S.C., so that the reference in such section will be to the correct section number in title 28, U.S.C., as revised and enacted in 1948.

## AMENDMENTS

1949—Act May 24, 1949, substituted “section 2042” for “section 852”.

**§ 3667. Liquors and related property; definitions**

All liquor involved in any violation of sections 1261-1265 of this title, the containers of such liquor, and every vehicle or vessel used in the transportation thereof, shall be seized and forfeited and such property or its proceeds disposed of in accordance with the laws relating to seizures, forfeitures, and dispositions of property or proceeds, for violation of the internal-revenue laws.

As used in this section, “vessel” includes every description of watercraft used, or capable of being used, as a means of transportation in water or in water and air; “vehicle” includes animals and every description of carriage or other contrivance used, or capable of being used, as a means of transportation on land or through the air.

(June 25, 1948, ch. 645, 62 Stat. 840, § 3615; renumbered § 3667, Pub. L. 98-473, title II, § 212(a)(1), Oct. 12, 1984, 98 Stat. 1987.)

## HISTORICAL AND REVISION NOTES

Based on sections 222 and 224 of title 27, U.S.C., 1940 ed., Intoxicating Liquors (June 25, 1936, ch. 815, §§ 2, 4, 49 Stat. 1928).

Section consolidates sections 222 and 224 of title 27, U.S.C., 1940 ed., with changes in phraseology and arrangement necessary to effect the consolidation. Said section 222 is also incorporated in section 1262 of this title.

Definition of “State” in section 222 of title 27 U.S.C., 1940 ed., as meaning and including “every State, Territory, and Possession of the United States,” was omitted because the words “Territory, District,” and so forth, appear after “State” in sections 1262, 1265, of this title, which are the only sections in chapter 59, constituting sections 1261-1265 of this title, to which such definition would have been applicable.

Changes made in phraseology.

**§ 3668. Remission or mitigation of forfeitures under liquor laws; possession pending trial**

## (a) JURISDICTION OF COURT

Whenever, in any proceeding in court for the forfeiture, under the internal-revenue laws, of any vehicle or aircraft seized for a violation of the internal-revenue laws relating to liquors, such forfeiture is decreed, the court shall have exclusive jurisdiction to remit or mitigate the forfeiture.

## (b) CONDITIONS PRECEDENT TO REMISSION OR MITIGATION

In any such proceeding the court shall not allow the claim of any claimant for remission or mitigation unless and until he proves (1) that he has an interest in such vehicle or aircraft, as owner or otherwise, which he acquired in good faith, (2) that he had at no time any knowledge or reason to believe that it was being or would be used in the violation of laws of the United States or of any State relating to liquor, and (3) if it appears that the interest asserted by the claimant arises out of or is in any way subject to any contract or agreement under which any person having a record or reputation for violating laws of the United States or of any State relating to liquor has a right with respect to such vehicle or aircraft, that, before such claimant acquired his interest, or such other person acquired his right under such contract or agreement, whichever occurred later, the claimant, his officer or agent, was informed in answer to his inquiry, at the headquarters of the sheriff, chief of police, principal Federal internal-revenue officer engaged in the enforcement of the liquor laws, or other principal local or Federal law-enforcement officer of the locality in which such other person acquired his right under such contract or agreement, of the locality in which such other person then resided, and of each locality in which the claimant has made any other inquiry as to the character or financial standing of such other person, that such other person had no such record or reputation.

## (c) CLAIMANTS FIRST ENTITLED TO DELIVERY

Upon the request of any claimant whose claim for remission or mitigation is allowed and whose interest is first in the order of priority among such claims allowed in such proceeding and is of an amount in excess of, or equal to, the appraised value of such vehicle or aircraft, the court shall order its return to him; and, upon the joint request of any two or more claimants whose claims are allowed and whose interests are not subject to any prior or intervening interests claimed and allowed in such proceedings, and are of a total amount in excess of, or equal to, the appraised value of such vehicle or aircraft, the court shall order its return to such of the joint requesting claimants as is designated in such request. Such return shall be made only upon payment of all expenses incident to the seizure and forfeiture incurred by the United States. In all other cases the court shall order disposition of such vehicle or aircraft as provided in section 1306 of title 40, and if such disposition be by public sale, payment from the proceeds thereof, after satisfaction of all such expenses, of any such claim in its order of priority among the claims allowed in such proceedings.



## (d) DELIVERY ON BOND PENDING TRIAL

In any proceeding in court for the forfeiture under the internal-revenue laws of any vehicle or aircraft seized for a violation of the internal-revenue laws relating to liquor, the court shall order delivery thereof to any claimant who shall establish his right to the immediate possession thereof, and shall execute, with one or more sureties approved by the court, and deliver to the court, a bond to the United States for the payment of a sum equal to the appraised value of such vehicle or aircraft. Such bond shall be conditioned to return such vehicle or aircraft at the time of the trial and to pay the difference between the appraised value of such vehicle or aircraft as of the time it shall have been so released on bond and the appraised value thereof as of the time of trial; and conditioned further that, if the vehicle or aircraft be not returned at the time of trial, the bond shall stand in lieu of, and be forfeited in the same manner as, such vehicle or aircraft. Notwithstanding this subsection or any other provisions of law relating to the delivery of possession on bond of vehicles or aircraft sought to be forfeited under the internal-revenue laws, the court may, in its discretion and upon good cause shown by the United States, refuse to order such delivery of possession.

(June 25, 1948, ch. 645, 62 Stat. 840, § 3617; renumbered § 3668, Pub. L. 98-473, title II, § 212(a)(1), Oct. 12, 1984, 98 Stat. 1987; amended Pub. L. 107-217, § 3(d), Aug. 21, 2002, 116 Stat. 1299.)

## HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 646 (Aug. 27, 1935, ch. 740, § 204, 49 Stat. 878).

A minor change was made in phraseology.

## REFERENCES IN TEXT

The internal-revenue laws relating to liquor, referred to in subsecs. (a) and (d), are classified generally to chapter 51 (§5001 et seq.) of Title 26, Internal Revenue Code.

## AMENDMENTS

2002—Subsec. (c). Pub. L. 107-217 substituted “section 1306 of title 40” for “sections 304f-304m of Title 40”.

**§ 3669. Conveyances carrying liquor**

Any conveyance, whether used by the owner or another in introducing or attempting to introduce intoxicants into the Indian country, or into other places where the introduction is prohibited by treaty or enactment of Congress, shall be subject to seizure, libel, and forfeiture.

(June 25, 1948, ch. 645, 62 Stat. 841, § 3618; renumbered § 3669, Pub. L. 98-473, title II, § 212(a)(1), Oct. 12, 1984, 98 Stat. 1987.)

## HISTORICAL AND REVISION NOTES

Based on section 247 of title 25, U.S.C., 1940 ed., Indians (Mar. 2, 1917, ch. 146, § 1, 39 Stat. 970).

Words “Automobiles or any other vehicles or” at beginning of section were omitted, and “any conveyance” substituted to remove possible ambiguity as to scope of section.

Words at conclusion of section “provided in section 246 of this title” added nothing and were therefore omitted. (See also rule 41 of the Federal Rules of Criminal Procedure.)

Minor changes were made in arrangement and phraseology.

**§ 3670. Disposition of conveyances seized for violation of the Indian liquor laws**

The provisions of section 3668 of this title shall apply to any conveyances seized, proceeded against by libel, or forfeited under the provisions of section 3113 or 3669 of this title for having been used in introducing or attempting to introduce intoxicants into the Indian country or into other places where such introduction is prohibited by treaty or enactment of Congress.

(Added Oct. 24, 1951, ch. 546, § 2, 65 Stat. 609, § 3619; renumbered § 3670 and amended Pub. L. 98-473, title II, §§ 212(a)(1), 223(k), Oct. 12, 1984, 98 Stat. 1987, 2029.)

## AMENDMENTS

1984—Pub. L. 98-473 renumbered section 3619 of this title as this section and substituted “3668” for “3617” and “3669” for “3618”.

## EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 223(k) of Pub. L. 98-473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98-473, set out as an Effective Date note under section 3551 of this title.

**§ 3671. Vessels carrying explosives and steerage passengers**

The amount of any fine imposed upon the master of a steamship or other vessel under the provisions of section 2278 of this title shall be a lien upon such vessel, and such vessel may be libeled therefor in the district court of the United States for any district in which such vessel shall arrive or from which it shall depart.

(Added Sept. 3, 1954, ch. 1263, § 36, 68 Stat. 1239, § 3620; renumbered § 3671, Pub. L. 98-473, title II, § 212(a)(1), Oct. 12, 1984, 98 Stat. 1987.)

**§ 3672. Duties of Director of Administrative Office of the United States Courts**

The Director of the Administrative Office of the United States Courts, or his authorized agent, shall investigate the work of the probation officers and make recommendations concerning the same to the respective judges and shall have access to the records of all probation officers.

He shall collect for publication statistical and other information concerning the work of the probation officers.

He shall prescribe record forms and statistics to be kept by the probation officers and shall formulate general rules for the proper conduct of the probation work.

He shall endeavor by all suitable means to promote the efficient administration of the probation system and the enforcement of the probation laws in all United States courts.

He shall, under the supervision and direction of the Judicial Conference of the United States, fix the salaries of probation officers and shall provide for their necessary expenses including clerical service and travel expenses.

He shall incorporate in his annual report a statement concerning the operation of the probation system in such courts.

He shall have the authority to contract with any appropriate public or private agency or per-

son for the detection of and care in the community of an offender who is an alcohol-dependent person, an addict or a drug-dependent person, or a person suffering from a psychiatric disorder within the meaning of section 2 of the Public Health Service Act. This authority shall include the authority to provide equipment and supplies; testing; medical, educational, social, psychological and vocational services; corrective and preventative guidance and training; and other rehabilitative services designed to protect the public and benefit the alcohol-dependent person, addict or drug-dependent person, or a person suffering from a psychiatric disorder by eliminating his dependence on alcohol or addicting drugs, by controlling his dependence and his susceptibility to addiction, or by treating his psychiatric disorder. He may negotiate and award contracts identified in this paragraph without regard to section 6101(b) to (d) of title 41. He also shall have the authority to expend funds or to contract with any appropriate public or private agency or person to monitor and provide services to any offender in the community authorized by this Act, including treatment, equipment and emergency housing, corrective and preventative guidance and training, and other rehabilitative services designed to protect the public and promote the successful reentry of the offender into the community.

He shall pay for presentence studies and reports by qualified consultants and presentence examinations and reports by psychiatric or psychological examiners ordered by the court under subsection (b) or (c) of section 3552, except for studies conducted by the Bureau of Prisons.

Whenever the court finds that funds are available for payment by or on behalf of a person furnished such services, training, or guidance, the court may direct that such funds be paid to the Director. Any moneys collected under this paragraph shall be used to reimburse the appropriations obligated and disbursed in payment for such services, training, or guidance.

(June 25, 1948, ch. 645, 62 Stat. 843, § 3656; May 24, 1949, ch. 139, § 57, 63 Stat. 97; renumbered § 3672, Pub. L. 98-473, title II, § 212(a)(1), Oct. 12, 1984, 98 Stat. 1987; Pub. L. 99-570, title I, § 1861(b)(1), Oct. 27, 1986, 100 Stat. 3207-53; Pub. L. 99-646, § 18(a), Nov. 10, 1986, 100 Stat. 3595; Pub. L. 100-182, § 20, Dec. 7, 1987, 101 Stat. 1270; Pub. L. 110-199, title II, § 253, Apr. 9, 2008, 122 Stat. 693; Pub. L. 110-406, § 15(b), Oct. 13, 2008, 122 Stat. 4294; Pub. L. 111-350, § 5(d)(1), Jan. 4, 2011, 124 Stat. 3847.)

#### HISTORICAL AND REVISION NOTES

##### 1948 ACT

Based on title 18, U.S.C., 1940 ed., § 728 (Mar. 4, 1925, ch. 521, § 4(a), as added June 6, 1930, ch. 406, § 2, 46 Stat. 503).

The only change made in this section was the substitution of the "Director of the Administrative Office of the United States Courts" for "Attorney General". (See reviser's note under section 3654 of this title.)

##### 1949 ACT

This amendment [see section 57] conforms the language of section 3656 of title 18, U.S.C., to that of title 28, U.S.C., section 604(a).

#### REFERENCES IN TEXT

Section 2 of the Public Health Service Act, referred to in the seventh undesignated par., is classified to section 201 of Title 42, The Public Health and Welfare.

This Act, referred to in the seventh undesignated par., probably means Pub. L. 110-199, Apr. 9, 2008, 122 Stat. 657, known as the Second Chance Act of 2007: Community Safety Through Recidivism Prevention and also as the Second Chance Act of 2007. For complete classification of this Act to the Code, see Short Title note set out under section 17501 of Title 42, The Public Health and Welfare, and Tables.

#### AMENDMENTS

2011—Pub. L. 111-350 substituted "section 6101(b) to (d) of title 41" for "section 3709 of the Revised Statutes of the United States" in seventh undesignated par.

2008—Pub. L. 110-406, § 15(b)(2), which directed insertion of "to expend funds or" after "He shall also have the authority" in fourth sentence of seventh undesignated par., was executed by making the insertion after "He also shall have the authority" to reflect the probable intent of Congress.

Pub. L. 110-406, § 15(b)(1), substituted "negotiate and award contracts identified in this paragraph" for "negotiate and award such contracts" in third sentence of seventh undesignated par.

Pub. L. 110-199 inserted last sentence of seventh undesignated par.

1987—Pub. L. 100-182, § 20(1), amended seventh undesignated par. generally. Prior to amendment, seventh undesignated par. read as follows: "He shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person, or an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). This authority shall include the authority to provide equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the alcohol-dependent person, addict, or drug-dependent person by eliminating his dependence on alcohol or addicting drugs, or by controlling his dependence and his susceptibility to addiction. He may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)."

Pub. L. 100-182, § 20(2), added ninth undesignated par.: "Whenever the court finds that funds are available for payment by or on behalf of a person furnished such services, training, or guidance, the court may direct that such funds be paid to the Director. Any moneys collected under this paragraph shall be used to reimburse the appropriations obligated and disbursed in payment for such services, training, or guidance."

1986—Pub. L. 99-570 and Pub. L. 99-646 added substantially identical seventh and eighth undesignated pars. containing provision relating to authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person, an addict, or a drug-dependent person and provision relating to payment for presentence studies and reports by qualified consultants and presentence examinations and reports by psychiatric and psychological examiners ordered by the court under section 3552(b) or (c).

1949—Act May 24, 1949, inserted in fifth par. of section "and direction" after "supervision".

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-182 applicable with respect to offenses committed after Dec. 7, 1987, see section 26 of Pub. L. 100-182, set out as a note under section 3006A of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENTS

Section 18(b) of Pub. L. 99-646 provided that: "The amendment made by this section [amending this sec-

tion] shall take effect on the date of the taking effect of such redesignation [section 3656 of this title renumbered section 3672 effective Nov. 1, 1987].”

Section 1861(b)(2) of Pub. L. 99-570 provided that: “The amendment made by this section [probably should be “subsection”, amending this section] shall take effect on the date of the taking effect of such redesignation [section 3656 of this title renumbered section 3672 effective Nov. 1, 1987].”

#### CONSTRUCTION OF 2008 AMENDMENT

For construction of amendments by Pub. L. 110-199 and requirements for grants made under such amendments, see section 17504 of Title 42, The Public Health and Welfare.

#### AUTHORIZATION OF APPROPRIATIONS

Section 4(a) of Pub. L. 95-537, as amended by Pub. L. 98-236, § 2, Mar. 20, 1984, 98 Stat. 66; Pub. L. 99-570, title I, § 1861(d), Oct. 27, 1986, 100 Stat. 3207-53; Pub. L. 100-690, title VI, § 6291, Nov. 18, 1988, 102 Stat. 4369; Pub. L. 101-421, § 2, Oct. 12, 1990, 104 Stat. 909, provided that: “To carry out the purposes of this Act [amending sections 3651 and 4255 of this title] and the 7th paragraph of section 3672 of title 18, United States Code, there are authorized to be appropriated sums not to exceed \$3,500,000 for the fiscal year ending September 30, 1980; \$3,645,000 for the fiscal year ending September 30, 1981; \$3,750,000 for the fiscal year ending September 30, 1982; \$5,000,000 for the fiscal year ending September 30, 1984; \$5,500,000 for the fiscal year ending September 30, 1985; \$6,500,000 for the fiscal year ending September 30, 1986; \$12,000,000 for the fiscal year ending September 30, 1987; \$24,000,000 for the fiscal year ending September 30, 1988; \$26,000,000 for the fiscal year ending September 30, 1989; \$30,000,000 for the fiscal year ending September 30, 1990; \$40,000,000 for the fiscal year ending September 30, 1991; and \$45,000,000 for the fiscal year ending September 30, 1992.”

#### INCREASE IN COMPENSATION RATES

Increase in compensation rates fixed under this section, see note under section 603 of Title 28, Judiciary and Judicial Procedure.

### § 3673. Definitions for sentencing provisions

As used in chapters 227 and 229—

(1) the term “found guilty” includes acceptance by a court of a plea of guilty or nolo contendere;

(2) the term “commission of an offense” includes the attempted commission of an offense, the consummation of an offense, and any immediate flight after the commission of an offense; and

(3) the term “law enforcement officer” means a public servant authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of an offense.

(Added Pub. L. 98-473, title II, § 212(a)(4), Oct. 12, 1984, 98 Stat. 2010; amended Pub. L. 99-646, § 2(a), Nov. 10, 1986, 100 Stat. 3592.)

#### AMENDMENTS

1986—Pub. L. 99-646 redesignated pars. (a) to (c) as (1) to (3), respectively, and inserted “the term” after “(1)”, “(2)”, and “(3)”.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Section 2(b) of Pub. L. 99-646 provided that: “The amendments made by this section [amending this section] shall take effect on the date of the taking effect of section 3673 of title 18, United States Code [Nov. 1, 1987].”

#### EFFECTIVE DATE

Section effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of this section, see section 235(a)(1) of Pub. L. 98-473, set out as a note under section 3551 of this title.

### CHAPTER 232A—SPECIAL FORFEITURE OF COLLATERAL PROFITS OF CRIME

Sec.

3681. Order of special forfeiture.

3682. Notice to victims of order of special forfeiture.

#### AMENDMENTS

1986—Pub. L. 99-646, § 41(b), (c), Nov. 10, 1986, 100 Stat. 3600, renumbered chapter 232 (relating to special forfeiture of collateral profits of crime) as chapter 232A, and renumbered items 3671 and 3672 as items 3681 and 3682, respectively.

### § 3681. Order of special forfeiture

(a) Upon the motion of the United States attorney made at any time after conviction of a defendant for an offense under section 794 of this title or for an offense against the United States resulting in physical harm to an individual, and after notice to any interested party, the court shall, if the court determines that the interest of justice or an order of restitution under this title so requires, order such defendant to forfeit all or any part of proceeds received or to be received by that defendant, or a transferee of that defendant, from a contract relating to a depiction of such crime in a movie, book, newspaper, magazine, radio or television production, or live entertainment of any kind, or an expression of that defendant's thoughts, opinions, or emotions regarding such crime.

(b) An order issued under subsection (a) of this section shall require that the person with whom the defendant contracts pay to the Attorney General any proceeds due the defendant under such contract.

(c)(1) Proceeds paid to the Attorney General under this section shall be retained in escrow in the Crime Victims Fund in the Treasury by the Attorney General for five years after the date of an order under this section, but during that five year period may—

(A) be levied upon to satisfy—

(i) a money judgment rendered by a United States district court in favor of a victim of an offense for which such defendant has been convicted, or a legal representative of such victim; and

(ii) a fine imposed by a court of the United States; and

(B) if ordered by the court in the interest of justice, be used to—

(i) satisfy a money judgment rendered in any court in favor of a victim of any offense for which such defendant has been convicted, or a legal representative of such victim; and

(ii) pay for legal representation of the defendant in matters arising from the offense for which such defendant has been convicted, but no more than 20 percent of the total proceeds may be so used.

(2) The court shall direct the disposition of all such proceeds in the possession of the Attorney